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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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Dante Monteverde

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EXAMINER

MILLER, ALAN S

ART UNIT

PAPER NUMBER

3624

MAIL DATE

DELIVERY MODE

12/22/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/711,992	Applicant(s) MONTEVERDE, DANTE	
	Examiner ALAN MILLER	Art Unit 3624	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 September 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-24 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>10/18/2004</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. The following is a FINAL Office Action in response to the application filed on October 18, 2004.

Claims 1-24 are pending in this application.

Response to Arguments

2. Applicant's arguments filed 9/22/2008 have been fully considered but they are not persuasive.
3. Applicant argues that Pomerance fails to disclose that Internet consumer provides a complaint about the merchant and the Internet users provide opinions of righteousness. Examiner respectfully disagrees.

In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., claim 14 recites the involvement of three entities: an Internet consumer, an Internet merchant; and a plurality of Internet users) are not recited in the rejected claim(s). Internet users and Internet consumers are merely titles attached to persons using the internet, and do not functionally affect the steps of receiving, forwarding, and displaying. Further, an Internet customer is a internet user, and the claims, as written, do not make a distinction that an internet user is different from an internet customer.

Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Art Unit: 3624

4. Applicant further argues that it is unclear how the Office Action can equate the concept of a consumer accepting an offer of resolution to the concept of Internet users' opinions of righteousness, and if a consumer accepts an offer, he may have any opinion he chooses, but out of necessity, determines that it is better to accept the offer than fight any further. The consumer may still have a very negative opinion even if the offer is accepted. Examiner respectfully disagrees. While it may be true that the consumer may still have a very negative opinion even if the offer is accepted, the claims as currently recited do not preclude an acceptance of an offer to equal an opinion of righteousness, since righteousness is a broad and subjective term, and therefore acceptance of an offer can equate to an opinion of righteousness of the offer, because the offer was considered fair, i.e. righteous, by the user/consumer.

5. Applicant also argues that Pomerance fails to disclose or suggest displaying the Internet users' opinions of righteousness as a numerical representation. However, the numbers on a display are merely non-functional descriptive material, and they are merely the content of an Internet site, and do not functionally affect the step of displaying the Internet users' opinions of righteousness, and it has been held that where the non-functional descriptive material is not functionally related to the substrate, the printed matter will not distinguish the invention from the prior art in terms of patentability (*In re Gulack*, 217 USPQ 401 (Fed. Cir. 1983), *In re Ngai*, 70 USPQ2d (Fed. Cir. 2004), *In re Lowry*, 32 USPQ2d 1031 (Fed. Cir. 1994); MPEP 2106.01 II). Pomerance discloses displaying the Internet users' opinions of righteousness (see at least col. 5, lines 2-15; The status of the case, which reflects whether or not the Internet user's opinion of the resolutions was fair, is displayed as part of the merchant's public record).

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

7. Claims **1-7, 11-16 and 20-24** are rejected under 35 U.S.C. 102(e) as being anticipated by Pomerance (U.S. 7,343,295).

8. As per claim **14**, Pomerance discloses a method for managing Internet consumer complaints comprising:

receiving a complaint from an Internet consumer in electronic format regarding the Internet consumer's interaction with an Internet merchant (col. 3, lines 61-67; col. 4, lines 58-63; Consumers may register complaints with a dispute system.);

forwarding the complaint to the Internet merchant for an Internet merchant's response (col. 4, lines 1-6; col. 4, lines 63-67; col. 5, lines 59-67; The complaint is forwarded to the merchant in that the merchant's rules/policies for handling complaints are reviewed.);

receiving any Internet merchant's response (col. 4, lines 7-12; A result of the review of the merchant's rules/policies for handling complaints is determined.);

displaying the complaint and any Internet merchant's response on a publicly accessible Internet site for a plurality of Internet users' opinions of righteousness (col. 5, lines 6-9; col. 6, lines 48-66; Merchants' records are made public.);

receiving at least one of the Internet users' opinions of righteousness in electronic format (col. 5, lines 2-15; The Internet users' opinions of righteousness are reflected in whether the user has accepted the merchant's offer of a resolution.); and

displaying the Internet users' opinions of righteousness on the Internet site as a numerical representation (col. 5, lines 2-15; The status of the case, which reflects whether or not the Internet user's opinion of the resolutions was fair, is displayed as part of the merchant's public record.).

9. As per claim **15**, Pomerance discloses the method as claimed in claim 14 further comprising verifying the origination of each Internet user's opinion of righteous (col. 5, lines 30-46; Figure 3B; User's must register and receive a unique identifier in order to submit a complaint, thereby enabling the system to verify the identity of the user submitting the complaint.).

10. As per claim **16**, Pomerance discloses the method as claimed in claim 15 further comprising displaying the opinions of users other than the consumer or merchant (col. 5, lines 2-15; The status of the case, which reflects whether or not Internet users' opinions of resolutions were fair, is displayed as part of the merchant's public record.).

11. As per claim **20**, the method as claimed in claim 14 wherein the Internet users' opinions of righteousness includes an analysis of the credibility of the Internet merchant and the

Art Unit: 3624

Internet consumer (See Table 10 in col. 23-24, where a user complaint includes their feelings about the merchant and whether the user believes they are being treated fairly.).

12. As per claim **21**, the method as claimed in claim 14 wherein the Internet users' opinions of righteousness includes an analysis of the Internet user's prior interaction with the Internet merchant (col. 7, lines 13-18; The complaint registered by the user may include information related to prior interaction with the merchant such as purchases and membership of buyer's clubs.).

13. As per claim **22**, the method as claimed in claim 14 wherein the step of forwarding the complaint to the Internet merchant for the Internet merchant's response includes automatically forwarding the complaint to the Internet merchant (col. 4, line 65-col. 5, line 2).

14. Claims **1-7, 11-13 and 23-24** recite subject matter similar to that already rejected above. Therefore, claims **1-7, 11-13 and 23-24** are rejected on the same basis as claims 14-16 and 20-22 above.

Claim Rejections - 35 USC § 103

15. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person

Art Unit: 3624

having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

16. Claims **8-10 and 17-19** are rejected under 35 U.S.C. 103(a) as being unpatentable over Pomerance (U.S. 7,343,295) and Tewari et al. (U.S. 7,363,361).

17. As per claims **17-19**, Pomerance does not expressly disclose wherein the step of verifying the origination of each Internet user's opinion of righteousness includes determining the Internet user's Internet Protocol address of a computer used by the Internet user; comparing the Internet user's Internet Protocol address to an Internet Protocol address assigned to the Internet merchant when the Internet merchant's response was received; or comparing the Internet user's Internet Protocol address to an Internet Protocol address assigned to the Internet consumer when the complaint was received. Tewari et al. discloses using a user's IP address and/or URL to authenticate the user (col. 49, lines 3-17 and 32-33). Therefore, at the time of the invention, it would have been obvious to a person of ordinary skill in the art to modify Pomerance to use a user's IP address and/or URL to authenticate the user as doing so ensures that the user is who they say they are by identifying the computer they are coming from, thereby enhancing the integrity of the complaint system.

18. Claims **8-10** recite subject matter similar to that already rejected above. Therefore, claims **8-10** are rejected on the same basis as claims 17-19 above.

Conclusion

Art Unit: 3624

19. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- Martherus et al. (U.S. 7,194,764) discusses verifying identity of a user by comparing the user's IP address to an IP addresses called for by the authorization rule;
- Walker et al. (U.S. 7,383,200) discusses receiving customer feedback about products/services.

20. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ALAN MILLER whose telephone number is (571)270-5288. The examiner can normally be reached on Mon - Thur, 9:00am - 5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, BRADLEY BAYAT can be reached on (571) 272-6704. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3624

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/A. M./

Examiner, Art Unit 3624

/Bradley B Bayat/

Supervisory Patent Examiner, Art Unit 3624